

REMARKS

This Application has been carefully reviewed in light of the Final Action mailed December 31, 2003. Applicant respectfully requests reconsideration and favorable action in this case.

The Examiner has incorrectly stated that the Information Disclosure Statement filed January 3, 2001 failed to comply with the provisions of 37 C.F.R. §§1.97 and 1.98 and M.P.E.P. §609 as it did not enclose the relevant documents. Applicant respectfully submits that copies of all 73 documents cited on Form PTO-1449 were included in the Information Disclosure Statement of January 3, 2001. As evidence thereof, attached herewith is a copy of the filing postcard, the Certificate of Mailing, and the Express Mail receipt showing that copies of the cited documents were included. As clearly shown on the Express Mail receipt, the weight of the package being 12 lbs. 11 ozs. and the cost of \$38.05 clearly indicates that Applicant submitted the documents cited on Form PTO-1449. Therefore, Applicant respectfully requests the Examiner to consider these references and indicate that these cited documents were considered during examination of the present Application.

Claims 1-4, 13-16, 28-31, and 38-41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and further in view of Gerszberg, et al. Independent Claims 1, 13, 28, and 38 recite in general the ability to interface with first and second data communication protocols and that the associated broadband networks providing data packets can be any of digital subscriber line, cable, or wireless platforms. By contrast, the Examiner readily admits that the Focsaneanu, et al. patent fails to disclose the ability to interface with first and

second data communication protocols and also fails to disclose the types of broadband networks provided in the claims. Thus, the Focsaneanu, et al. patent is insufficient by itself to support a rejection of the claims.

The Examiner combines the Chao, et al. patent with the Focsaneanu, et al. patent to support the ability to interface with first and second data communication protocols. However, the Chao, et al. patent is merely directed to a an optical customer premises network for interfacing customer premises equipment. The portion of the Chao, et al. patent cited by the Examiner is concerned with a protocol for handling multiple priorities, which is not remotely related to interfacing with first and second data communication protocols. Thus, the protocol for handling priorities mentioned by the Chao, et al. patent does not provide the ability to interface with first and second data communication protocols as required by the claimed invention.

The Examiner combines the Gerszberg, et al. patent with the Focsaneanu, et al. patent to support the fact that the associated broadband networks providing data packets can be any of digital subscriber line, cable, or wireless platforms. However, the portions of the Gerszberg, et al. patent cited by the Examiner provide for only a single type of communication capability to and from its customer premises. Thus, the Gerszberg, et al. patent does not disclose interfacing with first and second data communication protocols as required by the claimed invention. Therefore, Applicant respectfully submits that Claims 1-4, 13-16, 28-31, and 38-41 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. combination.

Claims 5-7, 17-19, 32, 33, 42, and 43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu,

et al. in view of Chao, et al. and Gerszberg, et al. and further in view of Hortenslus, et al. Independent Claim 1, from which Claims 5-7 depend; Independent Claim 13, from which Claims 17-19 depend; Independent Claim 28, from which Claims 32 and 33 depend; and Independent Claim 38, from which Claims 42 and 43 depend, have been shown above to be patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. combination. Moreover, the Hortenslus, et al. application does not include any additional disclosure combinable with the Focsaneanu, et al. or Chao, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 5-7, 17-19, 32, 33, 42, and 43 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. - Hortenslus, et al. combination.

Claims 8, 10, 12, 20, 22, 24, 34, 35, 37, 44, 45, and 47 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and Gerszberg, et al. and further in view of Pounds, et al. Independent Claim 1, from which Claims 8, 10, and 12 depend; Independent Claim 13, from which Claims 20, 22, and 24 depend; Independent Claim 28, from which Claims 34, 35, and 37 depend; and Independent Claim 38, from which Claims 44, 45, and 47 depend, have been shown above to be patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. combination. Moreover, the Pounds, et al. application does not include any additional disclosure combinable with the Focsaneanu, et al. or Chao, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 8, 10, 12, 20, 22, 24, 34, 35, 37, 44, 45, and 47 are patentably distinct from

the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. - Pounds, et al. combination.

Claims 11, 23, 36, and 46 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Focsaneanu, et al. in view of Chao, et al. and Gerszberg, et al. and further in view of Lyles, et al. Independent Claim 1, from which Claim 11 depends; Independent Claim 13, from which Claim 23 depends; Independent Claim 28, from which Claim 36 depends; and Independent Claim 38, from which Claim 46 depends, have been shown above to be patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. combination. Moreover, the Lyles, et al. application does not include any additional disclosure combinable with the Focsaneanu, et al. or Chao, et al. patents that would be material to patentability of these claims. Therefore, Applicant respectfully submits that Claims 11, 23, 36, and 46 are patentably distinct from the proposed Focsaneanu, et al. - Chao, et al. - Gerszberg, et al. - Lyles, et al. combination.

Applicant notes with appreciation the allowability of Claims 9, 21, and 25-27 if placed into appropriate independent form. Applicant respectfully defers placing Claims 9, 21, and 25-27 into independent form pending reconsideration and final disposition of the existing independent claims.

The present Response to Examiner's Final Action is necessary to address the newly cited art and the new grounds of rejection raised by the Examiner. This Response to Examiner's Final Action could not have been presented earlier as the Examiner has only now provided a new citation of art in support of new grounds of rejection

CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of Claims 1-47.

The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicant

A handwritten signature in black ink, appearing to read 'Charles S. Fish', is written over the printed name.

Charles S. Fish

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